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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,319	12/19/2001	Kouzo Nagashima	SHO 1007-01US	8141

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EXAMINER	
ENATSKY, AARON L	
ART UNIT	**PAPER NUMBER**
3713	8

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/025,319	Applicant(s) NAGASHIMA, KOUZO	
	Examiner Aaron L Enatsky	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2,4 and 6-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2,4 and 6-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendment on 11/01/03. The arguments set forth in the response are addressed herein below. Claims 1, 3, and 5 are cancelled. Claims 2, 4, and 6 remain pending with newly added claims 7-15.

Claim Objections

Claims 13 and 14 depend from the same independent claim and are directed to identical subject matter. The claims appear to be very similar, or nearly identical. The claims fail to further limit the subject matter thus requires correction.

Claim Rejections - 35 USC § 103

The following is a quotation of35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2,4, 6-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,322,451 to Miura in view of US Patent No. 6,024,643 to Begis.

Claims 2,4, 6-9, and 12: Miura teaches a tournament game system that allows players to choose opponents to compete against (Abstract). Players can choose other player they desire to play against based upon listed player skills (Abstract). Additionally, if no opponents are available for play, a virtual player can be substituted, controlled by a computer for competition (Abstract and Fig. 5). Miura also teaches that if a player does not choose available competitors, a computer will generate a virtual player to substitute as a competitive player (6:1-47). Miura lacks

teaching a computer producing virtual game players when available game players is below a predetermined number. Begis teaches a network game system that allows for remote, virtual competition in single and tournament game formats (Abstract). Begis also teaches that a player can play with virtual players, representing real players, or allow a completely virtual competition played by only virtual players (5:40-45). Other embodiments taught by Begis show teachings of real opponents competing (7:15-20), real players versus computer generated opponents (7:15-20), and teams competing against real or virtual players (8:20-30). One impetus for Begis's system is to assist players in finding suitable opponents for competition (2:54-3:12). In this process Begis provides that if a player needed for a game is not available, then a computer program will continue to search for suitable opponents (7:63-66). As such, one would be motivated to modify Miura to implement a system that matches the best suited opponent to a player, using real or virtual players so that a player's time is not wasted on an unsuitable match (Begis 7:60-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miura to use the Begis matching system which will provide the best suitable player for competition, including virtual players, so that a player's time is not wasted.

Claim 10: One of the competitive games is described as chess (Begis 2:54-64).

Claim 11: Games can be in tournament format as describe above, which generally encompasses a plurality of the same kinds of games if not a series of the same game.

Claim 15: Playing against virtual players is discussed for use as a training mechanism to develop player skills, wherein players are provided suitable skill matched opponents (5:45-56) or imposed with some handicap to insure equal difficulty for both players. Playing against virtual

players is also taught as providing a strategy to defeat opponents in future games (7:10-14).

Claim 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Begis as applied to claims 2,4, 6-12, and 15 above, and further in view of US Patent No. 6,050,895 to Luciano Jr. ("Luciano"). Miura in view of Begis teach the limitations as discussed above, but does not teach recording game play for later use. Luciano teaches a network competition game between two or more players (11:57-65) with a memory for recording game play (11:34-52). The recording device is for recording game play so that a user can assure himself or herself that proper prizes were awarded. One would be motivated to modify Miura in view of Begis to use a game play recording mechanism so that a player can be assured that the proper outcome was determined. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miura in view of Begis to implement the system taught by Luciano so that users can be assured that game outcome accuracy is insured.

Response to Arguments

In regard to Applicant's arguments directed towards virtual players displayed as actual game players, the appearance of an opponent does not change the operations and thus is merely serving as intended use of existing technology. In this case the existing technology is the computer-generated characters used as competition substitutions for real players. In either case, the underlying character has is not any different, Applicant' just chooses to identify the opponent by a different name. Thus, Applicant's arguments are considered unpersuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ALE

T. Walberg

Teresa Walberg
Supervisory Patent Examiner
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